IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

CRP.No. 1014 of 2005

(OS.144/2002 of I ADDL.SUB COURT, THRISSUR)

REVN. PETITIONER/1st RESPONDENT/ PLAINTIFF:

MRS. PRASANNA, D/O. CHENDALATH
GOVINDAN NAIR & KANDOTH SREEDEVI AMMA,
RATHNA VIHAR, PUTHUSSERRY, CHERUTHURUTHY VILLAGE,
THALAPPALLY TALUK, NOW W/O. AMBALATH MADHAVAN
RAMANANDAPURAM DESOM, PALAKKAD VILLAGE,
PALAKKAD.

BY ADV. SRI.SREELAL N.WARRIER
SRI.SACHIN JOSEPH

RESPONDENTS/APPLICANT & 2ND RESPONDENT/ADDL. DEFENDANT & 1st DEFENDANT:

1. JANAKI @ SREEDEVI AMMA,
KANDOTH MANDIAMMA, RATHNA VIHAR,
PUTHUSSERRY DESOM, CHERUTHURUTHY VILLAGE,
THALAPPALLY TALUK.

2. PRADEEP KUMAR, S/O. CHANDALATH GOVINDAN
NAIR, KANDOTH SREEDEVI AMMA, PUTHUSSERRY DESOM,
CHERUTHURUTHY VILLAGE, THALAPPALLY TALUK
PRESENTLY RESIDING AT `RATNA VIHAR'.

BY ADV. SRI.M.P.ASHOK KUMAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO. 2339 OF 2005 IN C.R.P.No. 1014 OF 2005

DISMISSED.

16.11.2007 SD/- K.T. SANKARAN, JUDGE.

/TRUE COPY/

P.A. TO JUDGE.

K.T. SANKARAN, J.

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C.R..P. No. 1014 OF 2005

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Dated this the 16th November, 2007

O R D E R

The plaintiff in O.S.No. 144 of 2002 on the file of the court of the I Addl. Subordinate Judge, Thrissur, challenges the order dated 29th September, 2005 in I.A.No.4692 of 2004, by which the court below allowed the application for impleading filed by Janaki @ Sreedeviamma to get herself impleaded as the additional second defendant.

2. The plaintiff, Prasanna, and the defendant Pradeepkumar are the children of Janaki @ Sreedeviamma. The suit was filed by Prasanna for mandatory injunction directing Pradeepkumar to vacate the plaint schedule house. Prasanna contended that the plaint schedule property belonged to her as per a sale deed executed by the mother in her favour. The defendant contended that the sale deed executed in her favour was under coercion. It was also contended by him that the sale deed was subsequently cancelled by the mother as per another deed and thereafter the mother had executed the settlement deed in favour of the defendant pending the suit. The mother filed an application for impleading herself as the additional second defendant. The prayer was opposed by the plaintiff. It was even contended that the mother had not filed the application on her own but the defendant was instrumental for filing

such an application which is not really genuine. Learned counsel for the petitioner submits that it was even submitted before the court below that the mother may be directed to be present before the court to ascertain the truth or otherwise of the application.

3. The court below allowed the application by a cryptic order which reads as follows:

"Heard. I.A. allowed."

Since the court below has not considered the application on the merits and has not dealt with the contentions put forward by the parties, the order is liable to be set aside on that short ground.

4. The first respondent, Janaki @ Sreedeviamma died after the filing of the revision. To continue to prosecute this revision, it is necessary for the revision petitioner to implead the legal representatives of the deceased 1st respondent. Two of the legal representatives of the 1st respondent are already on record and therefore, I am of the view that there is no abatement. The order passed by the court below is not a speaking order. I am of the view that it is not necessary to drag all the other legal representatives to this court as additional respondents and then dispose of the Civil Revision Petition. Since estate of the mother is substantially represented by the plaintiff and the defendant, I am of the view that the revision can be proceeded with, without impleading the other

legal representatives of the mother.

Accordingly, the order impugned is set aside. The court below is directed to consider the application afresh and dispose of the same. Since the person who has sought to get herself impleaded as additional second defendant is no more now, it is for her legal representatives to decide , whether that application should be continued or not. If any such application for impleading is filed by the the legal representatives of the deceased, any person intending to oppose such a prayer would be entitled to file objections. The court below shall consider all such objections and dispose of the matter afresh in the light of the subsequent developments as well, as expeditiously as possible and at any rate, within three months from the date of receipt of a copy of this order. If no application is filed by any person to substitute him or her as petitioner in I.A.No.4692 of 2004, within a period of one month from the date of receipt of a copy of this order, the court below shall close I.A.No. 4692 of 2004 as unnecessary.

The Civil Revision Petition is disposed of as above.

K.T. SANKARAN,
JUDGE.

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